

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAFUS BOYD,)	CASE NO. 1:07CV2662
)	
Petitioner,)	JUDGE PETER C. ECONOMUS
)	
v.)	
)	
GERALD McFAUL, Sheriff,)	MEMORANDUM OPINION
)	AND ORDER
Respondent.)	
)	

This matter is before the Court upon a petition for a writ of habeas corpus filed by Jafus Boyd (“Petitioner”), pursuant to 28 U.S.C. § 2241.¹ (Dkt. # 1).

On October 29, 2007, this case was automatically referred to Magistrate Judge Kenneth S. McHargh for preparation of a Report and Recommendation, pursuant to 28 U.S.C. § 636 and LR 72.1. (Dkt. # 6). On January 16, 2008, the Magistrate issued a report and recommendation, recommending that the Court dismiss the instant petition because Petitioner has failed to exhaust his available state remedies. (Dkt. # 11).

Petitioner timely filed objections to the Magistrate’s R&R, which Petitioner styled “Petitioner’s Motion of Traverse/Default”. (Dkt. # 12).

The Court has reviewed Petitioner’s objections and finds that they are without merit. Specifically, as the Magistrate has noted, the comity concerns underlying the doctrine of exhaustion of state remedies preclude this Court from granting the instant

¹ As the Magistrate noted in his Report and Recommendation (Dkt. # 11), Petitioner erroneously filed his petition under 28 U.S.C. § 2254. Because Petitioner is in pretrial detention, the petition is properly brought pursuant to 28 U.S.C. § 2241.

petition while Petitioner's motion to dismiss the state indictment on speedy trial grounds remains pending before the state court.

The Court has reviewed the report and recommendation of the Magistrate Judge *de novo*, and finds that it is well-supported. Therefore, the Report and Recommendation of Magistrate Judge McHargh (Dkt. # 11) is hereby **ADOPTED**, and Petitioner's petition for a writ of habeas corpus is **DISMISSED**.

IT IS SO ORDERED.

/s/ Peter C. Economus – February 1, 2008
PETER C. ECONOMUS
UNITED STATES DISTRICT JUDGE